

Administrative Rule R930-6
Chapter 7 State Highway Access Management
7.2.14 Variance Request Procedures

An access variance grants permission to depart from the standards and requirements of this Rule for the purpose of review of the permit application.

Applicants seeking a variance from the standards and requirements of this Rule will submit the request as an attachment to the formal permit application. A subsequent request for a variance may be allowed in accordance to the completeness check review procedure as a supplement to a previously submitted application if the Department determines that it is in the public interest to do so. The Region Permit Officer and Region Traffic Engineer will review all requests for variance.

The request for a variance will specify, in writing, why the variance is appropriate and necessary. Include in the request, documentation of conditions with and without the variance with the documentation showing that the applicant has considered all practical and reasonable mitigation alternatives. The variance request results from the application of the standard or requirement of this Rule suffered directly and solely by the applicant, and is not self-created or self-imposed such as by the applicant acting with or without knowledge of the applicable standard or requirement. A variance will not be granted for procedural requirements.

The applicant is responsible for showing that the variance request meets minimum acceptable engineering, operation, and safety standards and the variance is not detrimental to the public health, welfare, and safety and the variance is reasonably necessary for the convenience and welfare of the public.

The Region Traffic Engineer will consider the factors cited in 7.2 and will ensure that granting a request for variance is consistent with the purposes of this Rule cited in 7.1.1. The Region Traffic Engineer will consider specific factors in determining that the granting of a variance will not negatively impact the current and proposed operation of the highway:

- The applicant has considered all other feasible alternatives to provide reasonable access to the land use or development and can demonstrate that better alternatives in terms of highway operations are not feasible or does not exist.
- The applicant has considered access through a shared use driveway or access point with an adjacent land use and such a shared use access is not feasible.
- The applicant is providing on-site or off-site traffic improvements that might offset the negative impacts of granting an access that does not meet standards.

- The applicant has considered and demonstrated trip reduction strategies that allow the access to properly function without creating a negative impact to the highway.
- The applicant has provided traffic engineering or other studies to determine that the access will not degrade the efficient flow of traffic on the highway in terms of safety, capacity, travel speed, and other functional features of the highway.

The review and final action of whether to approve or disapprove the variance will be completed within forty-five (45) days of the date of acceptance of the request for variance application.

Include the documentation of reasons for approving the variance in the Department files and records pertaining to the permit if a variance is granted. State in the terms and conditions of the approved permit and variance that the permittee may be required to improve, modify, eliminate, or correct the condition responsible for the variance when it is evident that the justification for the variance is no longer valid.

The permit may stipulate conditions and terms for the expiration of the permit when the necessity for the variance no longer exists, allowing direct access to a State Highway when the access proposal cannot meet the standards of this Rule, or when the property would otherwise be without reasonable alternative access if a variance were approved.

If a variance is denied, the applicant may initiate an appeal only after complete review and determination of the access permit application. An appeal process will be governed by right of appeal as presented in the Administrative Procedures Act, Utah Code 63-46b.